REMARKS

Claims 1, 3, 8, 10, 11 and 15 have been amended and claims 21 and 22 have been added. The application now contains claims 1-22. Marked-up versions of amended claims 1, 3, 8, 10, 11 and 15 are attached hereto as APPENDIX A. The claims have been amended without prejudice or disclaimer to the subject matter recited therein and solely for the purposes of furthering the prosecution of the application. Applicant reserves the right to pursue the original claims and other claims in this application and in other applications.

A Request for Continued Examination (RCE) is being filed concurrently herewith.

Claims 1-3, 6, 8-13, 15 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ostrowsky. The rejection is respectfully traversed.

Claim 1 recites a safety closure comprising an outer cap and an inner cap. An inner surface of the outer cap's first top wall has "a plurality of lugs radially disposed thereon." The inner cap includes a "plurality of recesses" radially disposed thereon. The claimed recesses and lugs are "shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being applied to said outer cap." According to claim 1, "when the force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are engaged by inclined walls of said recesses allowing said inner cap to be rotated and removed from the container" (emphasis added).

Applicant respectfully submits that the closure disclosed by Ostrowsky does not have the recited lugs and recesses and thus, Ostrowsky does not disclose lugs that are engaged by inclined walls when a force is applied to the outer cap while the cap is being turned in the closure opening direction. These differences between the Ostrowsky closure and the claimed invention are best explained with reference to FIGS. 1-3 of the Ostrowsky patent.

The Ostrowsky closure 10 has an outer cap 14 having teeth 16 that inter-engage teeth 18 formed on an inner cap 12. Each tooth 18 has a front portion 34 that is essentially a vertical wall and a rear portion formed of a lower portion 40 and an upper portion 42. The lower portion 40 is a vertical wall while the upper portion 42 is an inclined wall (see FIG. 2). A planar portion 36 connects the inclined upper portion 42 to the vertical front portion 34. The gaps between the teeth 18 are arguably recesses. The teeth 18 and corresponding gaps disclosed by Ostrowsky, however, are very different from the claimed recesses.

For example, although each tooth 18 of the Ostrowsky closure 10 has an inclined portion 42, the inclined portion 42 is not used to engage any portion of the teeth 16 formed on the outer cap 14 when the closure 10 is to be removed from a bottle. Instead, a separately formed vertical lower portion 42 is used to engage the teeth 16 when the user applies a downward force. Thus, the Ostrowsky closure 10 is different from the claimed invention. Because the Ostrowsky closure 10 uses the vertical lower portion 42 to engage the teeth 16 when the closure 10 is to be removed from the bottle, a separator mechanism (e.g., socket 28 and stud 30 best seen in FIG. 1) must be used to ensure that the teeth 16 do not engage the

lower portion 42 unless there is the required downward force (Col. 3, line 54 to Col. 4, line 17 and Col. 4, lines 40 to 50). That is, without the separation of the outer and inner caps, Ostrowsky would not be child resistant. As noted in a previously filed amendment, and in the present application, the shape of the claimed lugs and recesses removes the need for a separator in the claimed invention, which provides the claimed invention with numerous advantages over prior art closures (see Amendment dated June 21, 2001 at 7-8; Specification page 10, line 4 to page 11, line 12).

Moreover, because the Ostrowsky closure 10 needs a separator mechanism (e.g., socket 28 and stud 30), the outer cap 14 must contain a certain amount of flexibility to ensure that it exhibits the required "two-way spring action" to ensure that the teeth 16 can be flexed down to engage the lower portion 42 (when there is a downward force) and flexed up to ride up the inclined portion 40 (when the downward force is removed) (Col. 3, lines 43 to 52; and Col. 4, lines 29 to 49). This flexibility is mandatory in the Ostrowsky closure 10, but is not required by the claimed invention. As noted in the present application, the claimed closure is more durable and desirable because it does not rely on flexible members (Specification page 10, line 13 to page 11, line 12).

Thus, the aforementioned differences cause the Ostrowsky closure 10 to have extra components (e.g., socket 28 and stud 30) that are not required by the claimed invention; cause the closure 10 to have specific flexibility requirements in order to operate correctly (i.e.,

"two-way spring action") that are not required by the claimed invention; and cause the closure 10 to operate in a different manner than the claimed invention.

For at least the foregoing reasons, claim 1 is allowable over Ostrowsky. Claims 2-3 and 6 depend from claim 1 and are allowable along with claim 1. Claims 8-13, 15 and 16 recite similar limitations as claims 1-3 and 6 and are allowable for at least the reasons set forth above and on their own merits. Accordingly, the rejection should be withdrawn and claims 1-3, 6, 8-13, 15 and 16 allowed.

Claims 1-6, 8-13, and 15-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Maki. The rejection is respectfully traversed.

As noted in a previously filed amendment, the closure disclosed by Maki requires a series of flexible filaments 36 to keep the overcap 26 separated from the lower cap 16 (see Amendment dated June 21, 2001 at 7-8). The separation is maintained until a downward force is applied to the overcap 26 (Col. 2, lines 33 to 58). Because Maki uses flexible filaments 36, the closure maintains the separation between the overcap 26 and lower cap 10 during the closure application and removal directions. That is, a downward force is required to both apply and remove the Maki closure (Col. 2, lines 48 to 58). This makes the Maki closure different from the claimed invention, which because of the shapes of its lugs and recesses does not require a downward force to apply the closure.

Another major difference between Maki and the claimed invention is that Maki uses teeth 24 comprised of two vertical walls (see FIG. 1). The vertical walls of the teeth 24 are used to engage knurls 34 during closure removal and application. Without inclined walls, Maki cannot and does not disclose engaging an inclined wall during closure removal as recited in claim 1. In addition, without the recited shape of the recess, Maki suffers from the same disadvantages as the Ostrowsky closure (set forth above). Thus, applicant respectfully submits that claims 1-6, 8-13, and 15-19 are allowable over Maki. The rejection should be withdrawn and claims 1-6, 8-13, and 15-19 allowed.

Claims 4, 5 and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostrowsky. The rejection is respectfully traversed.

Claims 4 and 5 depend from claim 1 and claims 17-19 depend from claim 15. As noted above, Ostrowsky fails to teach or suggest key features of claims 1 and 15. As such, Claims 1 and 15 are allowable over Ostrowsky and dependent claims 4, 5 and 17-19 are allowable along with claims 1 and 15. Accordingly, the rejection should be withdrawn and the claims allowed.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostrowsky in view of Friedenthal. The rejection is respectfully traversed.

Claim 7 depends from claim 1 and claim 14 depends from claim 8. As noted above, Ostrowsky does not teach or suggest all of the elements of claims 1 and 8. Applicant

respectfully submits that Friedenthal fails to do so as well. Friedenthal has been cited merely for disclosing a beveled edge. Friedenthal does not have the recited lugs and recesses (See FIG. 2). Thus, the combination of Ostrowsky and Friedenthal fails to teach or suggest all of the elements of claims 1 and 8 and dependent claims 7 and 14. Accordingly the rejection should be withdrawn and the claims allowed.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostrowsky in view of Buono. The rejection is respectfully traversed.

Claim 20 depends from claim 15. As noted above, Ostrowsky does not teach or suggest all of the elements of claims 15. Applicant respectfully submits that Buono fails to do so as well. Buono has been cited merely for disclosing indicia on its top cap. Buono does not have the recited lugs and recesses (see FIG. 1). Thus, the combination of Ostrowsky and Buono fails to teach or suggest all of the elements of claims 15 and dependent claim 20. Accordingly the rejection should be withdrawn and claim 20 allowed.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Maki in view of Friedenthal. The rejection is respectfully traversed.

Claim 7 depends from claim 1 and claim 14 depends from claim 8. As noted above, Maki does not teach or suggest all of the elements of claims 1 and 8. Applicant respectfully submits that Friedenthal fails to do so as well. Friedenthal has been cited merely for disclosing a beveled edge. As noted above, Friedenthal does not have the recited lugs and recesses. As

such, the combination of Maki and Friedenthal fails to teach or suggest all of the elements of claims 1 and 8 and dependent claims 7 and 14. Accordingly the rejection should be withdrawn and claims 7 and 14 allowed.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Maki in view of Buono. The rejection is respectfully traversed.

Claim 20 depends from claim 15. As noted above, Maki does not teach or disclose all of the elements of claims 15. Applicant respectfully submits that Buono fails to do so as well. Buono has been cited merely for disclosing indicia on its top cap. However, since Buono does not have the recited lugs and recesses, the cited combination fails to teach or suggest all of the elements of claims 15 and dependent claim 20. Accordingly the rejection should be withdrawn and claim 20 allowed.

Claims 3, 10 and 11 have been amended solely for consistency purposes and not to overcome any prior art. New claims 21 and 22 have been added to round out the scope and protection afforded to applicant's invention.

Although Claims 1, 8 and 15 have been amended to specifically recite the inclined wall of the recesses, applicant respectfully submits that no new search would be required to examine the claims. The inclined feature appeared in several of the claims (e.g., claims 3, 10, 11) as originally filed.

Allowance of the Application is solicited.

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Serial No.: 09/627,155 Docket No.: P7240.0001/P076

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APPENDIX A

Version With Markings to Show Changes Made

1. (Twice amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, an inner surface of said first top wall having a plurality of lugs radially disposed thereon; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt,

said recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction causing said closure to be applied to a container, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is <u>being</u> applied to said outer cap, and when the force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are engaged by <u>inclined walls of</u> said recesses allowing said inner cap to be rotated and removed from the container.

3. (Twice amended) The closure of claim 1, wherein [said recesses comprise an inclined wall and] said lugs slide up said inclined walls when said outer cap is turned in the closure opening direction and the force is not being applied to the outer cap.

8. (Twice amended) A child resistant safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are formed on an outer surface of said second top wall,

said recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is simultaneously applied to said outer cap <u>forcing said lugs to be engaged by inclined walls of said recesses</u>.

10 (Twice amended). The closure of claim 9, wherein [said recesses comprise an inclined wall and] said lugs slide up said inclined walls when said outer cap is turned in the closure opening direction and the force is not being applied to the outer cap.

11. (Twice amended) The closure of claim 8, wherein [said recesses comprise an inclined wall and] said lugs slide up said inclined walls when the force is not being applied to the outer cap.

15. (Twice amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt, each of said recesses comprise a vertical wall and an inclined wall,

said lugs and recesses are shaped such that [they] said lugs are engaged by said vertical walls when said outer cap is turned in a closure application direction, [and] said lugs slide up said inclined walls when said outer cap is turned in a closure opening direction and a force urging said outer cap towards said inner cap is not being applied to the outer cap, and said lugs are engaged by said inclined walls when said outer cap is turned in the closure opening direction while the force is being applied to said outer cap.

21. (New) The closure of claim 1, wherein said outer cap is free to move in both vertical and horizontal directions with respect to said inner cap.

22. (New) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, an inner surface of said first top wall having a plurality of lugs radially disposed thereon; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses being radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt,

said recesses and lugs being shaped such that said outer cap is free to move in both vertical and horizontal directions with respect to said inner cap and said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being simultaneously applied to said outer cap.